

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NATIONAL OILWELL VARCO, L.P.

Plaintiff,

v.

JULIO GARZA

Defendant.

Civil Action No. 4:22-cv-02006

**NON-PARTY ARRAY TECH, INC.’S PARTIALLY UNOPPOSED
MOTION TO SHORTEN THE FRCP 11 BAR DATE**

Non-Party Array Tech, Inc. (“Array”) files this Partially Unopposed Motion to Shorten the Rule 11 Bar Date (the “Motion to Shorten”) requesting that the Court shorten the 21-day requirement contained in Federal Rule of Civil Procedure 11(c)(2) and permit Array to file a Rule 11 Motion for Sanctions (the “Motion for Sanctions”) so that it may be decided at the same time as Plaintiff National Oilwell Varco, LP’s (“Varco”) Emergency Motion for Entry of a Forensic Examination Protocol (ECF 49, hereinafter, “Varco’s Motion”).

This Motion to Shorten is necessary because the Varco Motion seeks, in part, the turnover of electronic devices by non-party Array, relief that Array believes to be wholly improper and impermissible under Texas law. Moreover, Array believes Varco knowingly made several “factual” statements in the Varco Motion concerning Array’s alleged conduct that are wholly false or egregiously misleading. Through the Motion for Sanctions, Array seeks to set the record straight and to deter repetition of what Array believes to be deliberate violations of Federal Rule of Civil Procedure 11 for the improper purpose of delaying resolution of this proceeding, harassing Array, and causing unnecessary litigation expense. Array served the Motion for Sanctions on Varco on Monday, August 1, 2022.

There is good cause to grant this Motion to Shorten where the facts relevant to the Varco Motion and the Motion to Shorten are inextricably intertwined, and Array believes its Motion for Sanctions clarifies the currently incorrect factual record concerning Array's actual conduct and the parties' actual discussions on forensic discovery. Accordingly, Array seeks to have both motions heard and ruled on together. Federal Rule of Civil Procedure 11(c)(2), however, does not permit Array to file the Motion for Sanctions or present it to the Court until: (a) August 22, 2022, 21 days after the Motion for Sanctions was served on Varco; or (b) such other time period as set by the Court. FED. R. CIV. P. 11(c)(2). Accordingly, Array requests that the Court set a shorter time period for Array to file the Motion for Sanctions that is convenient for the Court's schedule and will permit the Motion for Sanctions to be decided at the same time as the Varco Motion.

Counsel for Array conferred with counsel for Varco on multiple occasions concerning Array's request to shorten the Rule 11 bar date to permit Array's Motion for Sanctions to be filed with the Court ahead of and decided at the same time as the Varco Motion, most recently in a conference call on Friday, July 29, 2022. Counsel for Varco indicated first and foremost that Varco is not opposed to shortening the bar date. This Motion to Shorten is partially opposed, however, because the parties do not know when the Court will decide the Varco Motion. Absent guidance from the Court on this issue, Array could not give Varco a date certain short of August 22, 2022 on which Array would need to file the Motion for Sanctions with the Court in order to have it heard and decided by the Court at the same time as the Varco Motion. The setting of that sooner date is the province of the Court, not for Array to decide, and Varco is opposed to this Motion to Shorten to the extent that Array is unable to specify a date certain on which it needs to file the Motion for Sanctions to achieve its intended purpose as stated herein.

For the foregoing good cause, Array requests that the Court grant this Motion to Shorten, and set a date convenient for the Court's schedule on which Array may file the Motion for Sanctions with the Court so that the Motion for Sanctions may be decided at the same time as the Varco Motion.

Dated: August 1, 2022.

Respectfully submitted,

FOLEY & LARDNER LLP

By: /s/ Rachel Powitzky Steely

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Attorneys for Non-Party Array Tech, Inc.

CERTIFICATE OF CONFERENCE

Counsel for Non-Party Array Tech. Inc. conferred with counsel for Plaintiff National Oilwell Varco, LP on multiple occasions concerning the relief Array requests in this Motion to Shorten, most recently on Friday, July 29, 2022. Varco is unopposed to shortening the date on which Array may file the Motion for Sanctions but is opposed to the extent Array cannot identify an exact shortened date. Array seeks resolution of the Rule11 aspects of its motion for sanctions before or concurrent with a decision on Varco's Motion such that it is for the Court, not Array, to decide such shortened date.

/s/ Rachel Powitzky Steely

Rachel Powitzky Steely

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served pursuant to the Federal Rules of Civil Procedure on August 1, 2022, to the following counsel of record:

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